AMENDED IN SENATE JUNE 9, 2011

AMENDED IN ASSEMBLY APRIL 11, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

# ASSEMBLY BILL No. 667

**Introduced by Assembly Member Mitchell**
***(Coauthor: Assembly Member Ammiano)***

February 17, 2011

An act to amend Section 14132.25 of the Welfare and Institutions Code, relating to Medi-Cal.

LEGISLATIVE COUNSEL'S DIGEST

AB 667, as amended, Mitchell. Medi-Cal: subacute care program.

Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services. The Medi-Cal program is, in part, governed and funded by federal Medicaid Program provisions. Existing law requires the department to establish a subacute care program in health facilities in order to more effectively use limited Medi-Cal dollars while ensuring needed services for patients who meet subacute care criteria, as established by the department. Existing law provides that, for the purposes of this program, subacute care may be provided by any facility designated by the Director of Health Care Services as meeting subacute care criteria and that has an approved provider participation agreement with the department. Existing law also provides that subacute patient care shall be defined by the department based on the results of a specified study.

This bill would delete the requirement that the department define subacute patient care based on the results of the study. This bill would

require, for the purposes of the subacute care program, medical necessity for pediatric subacute care services, as defined, to be substantiated in one of 5 ways. This bill would also make technical, nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

SECTION 1. The Legislature finds and declares all of the following:

(a) California has 10 pediatric subacute care hospitals providing cost-effective health care services to about 400 children under 21 years of age who rely on life-sustaining medical technology due to ~~their loss of vital bodily functions~~ *the loss of a vital bodily function*.

(b) The regulatory criteria used to evaluate or authorize admissions into the Medi-Cal subacute care program have not been adjusted since the program's inception 16 years ago.

(c) Pediatric subacute care is a fraction of the cost of care provided in a pediatric intensive care unit of an acute care hospital or a state developmental center. There are substantial Medi-Cal savings every time a child is successfully discharged from an acute care hospital to a subacute care facility.

(d) Therefore, it is in the intent of the Legislature to update the criteria for admissions from an acute care hospital to a pediatric subacute care facility to allow an individual's need for other complex treatment to be utilized as qualifying criteria for patient transfer.

SEC. 2. Section 14132.25 of the Welfare and Institutions Code is amended to read:

14132.25. (a) On or before July 1, 1983, the State Department of Health Care Services shall establish a subacute care program in health facilities in order to more effectively use the limited Medi-Cal dollars available while at the same time ensuring needed services for these patients. The subacute care program shall be available to patients in health facilities who meet subacute care criteria. Subacute care may be provided by any facility designated by the director as meeting the subacute care criteria that has an approved provider participation agreement with the department.

(b) The department shall develop a rate of reimbursement for this subacute care program. Reimbursement rates shall be determined in accordance with methodology developed by the department, specified in regulation, and may include the following:

(1) All-inclusive per diem rates.

(2) Individual patient-specific rates according to the needs of the individual subacute care patient.

(3) Other rates subject to negotiation with the health facility.

(c) Reimbursement at subacute care rates, as specified in subdivision (b), shall only be implemented if funds are available for this purpose pursuant to the annual Budget Act.

(d) The department may negotiate and execute an agreement with any health facility that meets the standards for providing subacute care. An agreement may be negotiated or established between the health facility and the department for subacute care based on individual patient assessment. The department shall establish level of care criteria and appropriate utilization controls for patients eligible for the subacute care program.

(e) For the purposes of this section, pediatric subacute services are the health care services needed by a person under 21 years of age who uses a medical technology that compensates for the loss of a vital bodily function.

(f) Medical necessity for pediatric subacute care services shall be substantiated in any one of the following ways:

(1) A tracheostomy with dependence on mechanical ventilation for a minimum of six hours each day.

(2) Dependence on tracheostomy care requiring suctioning at least every six hours, and room air mist or oxygen as needed, and dependence on one of the five treatment procedures listed in subparagraphs (B) to (F), inclusive:

(A) Dependence on intermittent suctioning at least every eight hours and room air mist and oxygen as needed.

(B) Dependence on continuous intravenous therapy, including administration of a therapeutic agent necessary for hydration or of intravenous pharmaceuticals, or intravenous pharmaceutical administration of more than one agent, via a peripheral or central line, without continuous infusion.

(C) Dependence on peritoneal dialysis treatments requiring at least four exchanges every 24 hours.

(D) Dependence on tube feeding by means of a nasogastric or gastrostomy tube.

(E) Dependence on other medical technologies required continuously, which, in the opinion of the attending physician and the Medi-Cal consultant, require the services of a professional nurse.

(F) Dependence on biphasic positive airway pressure at least six hours a day, including assessment or intervention every three hours and lacking either cognitive or physical ability of the patient to protect his or her airway.

(3) Dependence on total parenteral nutrition or other intravenous nutritional support, and dependence on one of the treatment procedures specified in subparagraphs (A) to (F), inclusive, of paragraph (2).

(4) Dependence on skilled nursing care in the administration of any three of the six treatment procedures specified in subparagraphs (A) to (F), inclusive, of paragraph (2).

(5) Dependence on biphasic positive airway pressure or continuous positive airway pressure at least six hours a day, including assessment or intervention every three hours and lacking either cognitive or physical ability of the patient to protect his or her airway and dependence on one of the five treatment procedures specified in subparagraphs (A) to (E), inclusive, of paragraph (2).

(g) The medical necessity determination outlined in subdivision (f) is intended solely for the evaluation of a patient who is potentially eligible and meets the criteria to be transferred from an acute care setting to a subacute level of care.

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